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**\*ORDER E-FILED ON 8/24/05\***

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAUL CASAREZ,

Plaintiff,

vs.

COUNTY OF SAN BENITO and  
SHERIFF CURTIS HILL,

Defendants.

Case No. CV 04-03658 HRL

**STIPULATION TO DISMISS  
CERTAIN CLAIMS WITH  
PREJUDICE, WITHDRAW  
SUMMARY JUDGMENT  
MOTION AS TO SAID CLAIMS,  
AND FILE FIRST AMENDED  
COMPLAINT; ORDER**

The parties hereto, by and through their undersigned attorneys of record, hereby stipulate, subject to approval by this court, to the following:

1. Dismissal with prejudice of the First Claim (42 U.S.C. §1983) and the Third Claim (Unruh Act) of Plaintiff's complaint, which are the subject of Defendants' pending motion for summary judgment. Each party shall bear his/its own fees and costs relating to said Claims. Accordingly, Defendants hereby withdraw the motion for summary judgment. Said dismissal is without prejudice to the Claims asserted in the attached First Amended Complaint.

2. Filing of the attached proposed First Amended Complaint which deletes the above two Claims, amends the Second Claim (Americans with Disabilities Act) to seek compensatory damages as well as injunctive relief under Title II, and adds a state claim

1 for dangerous condition of public property (Government Code §830 et. seq.). Defendants  
2 shall file a responsive pleading within seven days after issuance of the order approving  
3 this stipulation.

4 DATED: August 23, 2005

DATED: August 23, 2005

5 /s/ Michael E. Adams

/s/ Michael C. Serverian

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7 MICHAEL E. ADAMS  
Attorney for Plaintiff  
PAUL CASAREZ

8 MICHAEL C. SERVERIAN  
Attorney for Defendants  
COUNTY OF SAN BENITO and  
SHERIFF CURTIS HILL

9  
10 ~~PROPOSED~~

## ORDER

11 The parties so stipulating and good cause appearing,  
12 IT IS HEREBY ORDERED that the First Claim and Third Claim of Plaintiff's complaint  
13 are dismissed with prejudice, and Defendants' motion for summary judgment on said  
14 Claims is hereby taken off calendar.

15 IT IS FURTHER ORDERED that the proposed First Amended Complaint shall be filed  
16 forthwith, and that Defendants shall have seven days from the date of this order to file a  
17 responsive pleading.

18 DATED: August 24, 2005

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20 /s/ Howard R. Lloyd  
21 HONORABLE HOWARD R. LLOYD  
22 U.S. DISTRICT COURT MAGISTRATE  
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